

1 Approximately 45 minutes ago, plaintiffs counsel became aware of a filing by defendant Teck  
2 Cominco that plaintiffs believe is a serious breach of the confidentiality of settlement negotiations  
3 and defendant's counsel's ethical obligations.

4 2. The dispute in this case is only about the Consent Decree. The disclosure of other terms  
5 and conditions of the settlement agreement is wholly unnecessary and verges on bad faith behavior  
6 by defendant's counsel. The disclosure of plaintiffs' settlement positions is necessarily prejudicial  
7 to the plaintiffs.

8 3. Allowing the public – including the press, which has been closely following this dispute,  
9 apparently through PACER<sup>1</sup> – access to the plaintiffs' internal communications with the mediator,  
10 as well as versions of the Settlement Agreement that were later superseded, is prejudicial to the  
11 plaintiffs, is unnecessary for the resolution of the current dispute before this Court, and can only have  
12 been done to create mischief by Teck Cominco.

13 4. The harm to the plaintiffs of having their internal deliberations published for anyone to  
14 read – particularly in the close-knit community of Kivalina – is considerable.

15 I declare under penalty of perjury that the foregoing is true and correct. Executed this 6<sup>th</sup> day  
16 of August at San Francisco, California.

17  
18 /S/ Luke Cole

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26 <sup>1</sup>See, e.g., Tony Hopfinger and Joe Schneider, "Teck Cominco proposes \$120 million  
27 pipeline to end Alaska suit," Bloomberg.com (August 2, 2008) (quoting Teck Cominco's court  
28 filing of the previous day).